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Gerard Bastiaanse

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7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10

11 KEVIN DUPRIE JONES,

12 Plaintiff,

13 v.

14 CITY OF ANAHEIM; COLLIN
15 BRENNAN, individually and in his
16 official capacity; JONATHAN
17 MCCLINTOCK, individually and in
18 his official capacity; and GERARD
19 BASTIAANSE, individually and in
his official capacity; and DOES 1-10,
inclusive,

20 Defendants.
21

Case No.: 8:16-cv-02152 DOC (JCGx)

**STIPULATED PROTECTIVE
ORDER**

Action Filed: 12/2/2016
Trial Date: None set

22 1. A. PURPOSES AND LIMITATIONS

23 Discovery in this action is likely to involve production of confidential,
24 proprietary, or private information for which special protection from public
25 disclosure and from use for any purpose other than prosecuting this litigation
26 may be warranted. Accordingly, the parties hereby stipulate to and petition the
27 Court to enter the following Stipulated Protective Order. The parties
28 acknowledge that this Order does not confer blanket protections on all

1 disclosures or responses to discovery and that the protection it affords from
2 public disclosure and use extends only to the limited information or items that
3 are entitled to confidential treatment under the applicable legal principles. The
4 parties further acknowledge, as set forth in Section 12.3, below, that this
5 Stipulated Protective Order does not entitle them to file confidential
6 information under seal; Civil Local Rule 79-5 sets forth the procedures that
7 must be followed and the standards that will be applied when a party seeks
8 permission from the court to file material under seal.

9
10 **B. GOOD CAUSE STATEMENT**

11 This action is likely to involve materials and information that were
12 acquired in confidence by public employees in the course of their duties and has
13 not been officially disclosed or made open or available to the public. Such
14 confidential materials and information consist of, among other things: (1) law
15 enforcement investigative reports and records concerning the subject incident or
16 the plaintiff's prior interactions with law enforcement, which may contain
17 personal contact information of third party witnesses and alleged crime victims,
18 including but not limited to reports or memoranda prepared by the Anaheim
19 Police Department; and (2) confidential police officer personnel and
20 disciplinary materials maintained by the APD for the defendant police officers.
21 Such confidential materials and information are generally unavailable to the
22 public, and may be privileged or otherwise protected from disclosure under
23 state or federal statutes, court rules, case decisions, or common law.
24 Accordingly, to expedite the flow of information, to facilitate the prompt
25 resolution of disputes over confidentiality of discovery materials, to adequately
26 protect information the parties are entitled to keep confidential, to ensure that
27 the parties are permitted reasonable necessary uses of such material in
28 preparation for and in the conduct of trial, to address their handling at the end of

1 the litigation, and serve the ends of justice, a protective order for such
2 information is justified in this matter. It is the intent of the parties that
3 information will not be designated as confidential for tactical reasons and that
4 nothing be so designated without a good faith belief that it has been maintained
5 in a confidential, non-public manner, and there is good cause why it should not
6 be part of the public record of this case.

7
8 2. DEFINITIONS

9 2.1 Action: this pending federal law suit.

10 2.2 Challenging Party: a Party or Non-Party that challenges the
11 designation of information or items under this Order.

12 2.3 “CONFIDENTIAL” Information or Items: information (regardless
13 of how it is generated, stored or maintained) or tangible things that qualify for
14 protection under Federal Rule of Civil Procedure 26(c), and as specified above
15 in the Good Cause Statement.

16 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
17 their support staff).

18 2.5 Designating Party: a Party or Non-Party that designates information
19 or items that it produces in disclosures or in responses to discovery as
20 “CONFIDENTIAL.”

21 2.6 Disclosure or Discovery Material: all items or information,
22 regardless of the medium or manner in which it is generated, stored, or
23 maintained (including, among other things, testimony, transcripts, and tangible
24 things), that are produced or generated in disclosures or responses to discovery
25 in this matter.

26 2.7 Expert: a person with specialized knowledge or experience in a
27 matter pertinent to the litigation who has been retained by a Party or its counsel
28 to serve as an expert witness or as a consultant in this Action.

1 2.8 House Counsel: attorneys who are employees of a party to this
2 Action. House Counsel does not include Outside Counsel of Record or any
3 other outside counsel.

4 2.9 Non-Party: any natural person, partnership, corporation, association,
5 or other legal entity not named as a Party to this action.

6 2.10 Outside Counsel of Record: attorneys who are not employees of a
7 party to this Action but are retained to represent or advise a party to this Action
8 and have appeared in this Action on behalf of that party or are affiliated with a
9 law firm which has appeared on behalf of that party, and includes support staff.

10 2.11 Party: any party to this Action, including all of its officers,
11 directors, employees, consultants, retained experts, and Outside Counsel of
12 Record (and their support staffs).

13 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
14 Discovery Material in this Action.

15 2.13 Professional Vendors: persons or entities that provide litigation
16 support services (e.g., photocopying, videotaping, translating, preparing
17 exhibits or demonstrations, and organizing, storing, or retrieving data in any
18 form or medium) and their employees and subcontractors.

19 2.14 Protected Material: any Disclosure or Discovery Material that is
20 designated as “CONFIDENTIAL.”

21 2.15 Receiving Party: a Party that receives Disclosure or Discovery
22 Material from a Producing Party.

23
24 3. SCOPE

25 The protections conferred by this Stipulation and Order cover not only
26 Protected Material (as defined above), but also (1) any information copied or
27 extracted from Protected Material; (2) all copies, excerpts, summaries, or
28 compilations of Protected Material; and (3) any testimony, conversations, or

1 presentations by Parties or their Counsel that might reveal Protected Material.
2 Any use of Protected Material at trial shall be governed by the orders of the trial
3 judge. This Order does not govern the use of Protected Material at trial.
4

5 4. DURATION

6 Even after final disposition of this litigation, the confidentiality
7 obligations imposed by this Order shall remain in effect until a Designating
8 Party agrees otherwise in writing or a court order otherwise directs. Final
9 disposition shall be deemed to be the later of (1) dismissal of all claims and
10 defenses in this Action, with or without prejudice; and (2) final judgment herein
11 after the completion and exhaustion of all appeals, rehearings, remands, trials,
12 or reviews of this Action, including the time limits for filing any motions or
13 applications for extension of time pursuant to applicable law.
14

15 5. DESIGNATING PROTECTED MATERIAL

16 5.1 Exercise of Restraint and Care in Designating Material for
17 Protection.

18 Each Party or Non-Party that designates information or items for
19 protection under this Order must take care to limit any such designation to
20 specific material that qualifies under the appropriate standards. The Designating
21 Party must designate for protection only those parts of material, documents,
22 items, or oral or written communications that qualify so that other portions of
23 the material, documents, items, or communications for which protection is not
24 warranted are not swept unjustifiably within the ambit of this Order.

25 Mass, indiscriminate, or routinized designations are prohibited.
26 Designations that are shown to be clearly unjustified or that have been made for
27 an improper purpose (e.g., to unnecessarily encumber the case development
28 process or to impose unnecessary expenses and burdens on other parties) may

1 expose the Designating Party to sanctions.

2 If it comes to a Designating Party's attention that information or items
3 that it designated for protection do not qualify for protection, that Designating
4 Party must promptly notify all other Parties that it is withdrawing the
5 inapplicable designation.

6 5.2 Manner and Timing of Designations. Except as otherwise provided
7 in this Order (see, e.g., second paragraph of section 5.2(a) below), or as
8 otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies
9 for protection under this Order must be clearly so designated before the material
10 is disclosed or produced.

11 Designation in conformity with this Order requires:

12 (a) for information in documentary form (e.g., paper or electronic
13 documents, but excluding transcripts of depositions or other pretrial or trial
14 proceedings), that the Producing Party affix at a minimum, the legend
15 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
16 contains protected material. If only a portion or portions of the material on a
17 page qualifies for protection, the Producing Party also must clearly identify the
18 protected portion(s) (e.g., by making appropriate markings in the margins).

19 A Party or Non-Party that makes original documents available for
20 inspection need not designate them for protection until after the inspecting Party
21 has indicated which documents it would like copied and produced. During the
22 inspection and before the designation, all of the material made available for
23 inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has
24 identified the documents it wants copied and produced, the Producing Party
25 must determine which documents, or portions thereof, qualify for protection
26 under this Order. Then, before producing the specified documents, the
27 Producing Party must affix the "CONFIDENTIAL legend" to each page that
28 contains Protected Material. If only a portion or portions of the material on a

1 page qualifies for protection, the Producing Party also must clearly identify the
2 protected portion(s) (e.g., by making appropriate markings in the margins).

3 (b) for testimony given in depositions that the Designating Party
4 identify the Disclosure or Discovery Material on the record, before the close of
5 the deposition all protected testimony.

6 (c) for information produced in some form other than documentary
7 and for any other tangible items, that the Producing Party affix in a prominent
8 place on the exterior of the container or containers in which the information is
9 stored the legend "CONFIDENTIAL." If only a portion or portions of the
10 information warrants protection, the Producing Party, to the extent practicable,
11 shall identify the protected portion(s).

12 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
13 failure to designate qualified information or items does not, standing alone,
14 waive the Designating Party's right to secure protection under this Order for
15 such material. Upon timely correction of a designation, the Receiving Party
16 must make reasonable efforts to assure that the material is treated in accordance
17 with the provisions of this Order.

18 19 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

20 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
21 designation of confidentiality at any time that is consistent with the Court's
22 Scheduling Order.

23 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
24 resolution process under Local Rule 37.1 et seq.

25 6.3 The burden of persuasion in any such challenge proceeding shall be
26 on the Designating Party. Frivolous challenges, and those made for an improper
27 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
28 parties) may expose the Challenging Party to sanctions. Unless the Designating

1 Party has waived or withdrawn the confidentiality designation, all parties shall
2 continue to afford the material in question the level of protection to which it is
3 entitled under the Producing Party's designation until the Court rules on the
4 challenge.

5
6 7. ACCESS TO AND USE OF PROTECTED MATERIAL

7 7.1 Basic Principles. A Receiving Party may use Protected Material that
8 is disclosed or produced by another Party or by a Non-Party in connection with
9 this Action only for prosecuting, defending, or attempting to settle this Action.
10 Such Protected Material may be disclosed only to the categories of persons and
11 under the conditions described in this Order. When the Action has been
12 terminated, a Receiving Party must comply with the provisions of section 13
13 below (FINAL DISPOSITION).

14 Protected Material must be stored and maintained by a Receiving Party at
15 a location and in a secure manner that ensures that access is limited to the
16 persons authorized under this Order.

17 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
18 otherwise ordered by the court or permitted in writing by the Designating Party,
19 a Receiving Party may disclose any information or item designated
20 "CONFIDENTIAL" only to:

21 (a) the Receiving Party's Outside Counsel of Record in this Action, as
22 well as employees of said Outside Counsel of Record to whom it is reasonably
23 necessary to disclose the information for this Action;

24 (b) the officers, directors, and employees (including House Counsel) of
25 the Receiving Party to whom disclosure is reasonably necessary for this Action;

26 (c) Experts (as defined in this Order) of the Receiving Party to whom
27 disclosure is reasonably necessary for this Action and who have signed the
28 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(d) the court and its personnel;

(e) court reporters and their staff;

(f) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) during their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and

(i) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED
PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party must:

- (a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;
- (b) promptly notify in writing the party who caused the subpoena or

1 order to issue in the other litigation that some or all of the material covered by
2 the subpoena or order is subject to this Protective Order. Such notification shall
3 include a copy of this Stipulated Protective Order; and

4 (c) cooperate with respect to all reasonable procedures sought to be
5 pursued by the Designating Party whose Protected Material may be affected.

6 If the Designating Party timely seeks a protective order, the Party served
7 with the subpoena or court order shall not produce any information designated
8 in this action as “CONFIDENTIAL” before a determination by the court from
9 which the subpoena or order issued, unless the Party has obtained the
10 Designating Party’s permission. The Designating Party shall bear the burden
11 and expense of seeking protection in that court of its confidential material and
12 nothing in these provisions should be construed as authorizing or encouraging a
13 Receiving Party in this Action to disobey a lawful directive from another court.

14
15 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
16 PRODUCED IN THIS LITIGATION

17 (a) The terms of this Order are applicable to information produced by a
18 Non-Party in this Action and designated as “CONFIDENTIAL.” Such
19 information produced by Non-Parties in connection with this litigation is
20 protected by the remedies and relief provided by this Order. Nothing in these
21 provisions should be construed as prohibiting a Non-Party from seeking
22 additional protections.

23 (b) In the event that a Party is required, by a valid discovery request, to
24 produce a Non-Party’s confidential information in its possession, and the Party
25 is subject to an agreement with the Non-Party not to produce the Non-Party’s
26 confidential information, then the Party shall:

27 (1) promptly notify in writing the Requesting Party and the Non-
28 Party that some or all of the information requested is subject to a confidentiality

1 agreement with a Non-Party;

2 (2) promptly provide the Non-Party with a copy of the Stipulated
3 Protective Order in this Action, the relevant discovery request(s), and a
4 reasonably specific description of the information requested; and

5 (3) make the information requested available for inspection by the
6 Non-Party, if requested.

7 (c) If the Non-Party fails to seek a protective order from this court within
8 14 days of receiving the notice and accompanying information, the Receiving
9 Party may produce the Non-Party's confidential information responsive to the
10 discovery request. If the Non-Party timely seeks a protective order, the
11 Receiving Party shall not produce any information in its possession or control
12 that is subject to the confidentiality agreement with the Non-Party before a
13 determination by the court. Absent a court order to the contrary, the Non-Party
14 shall bear the burden and expense of seeking protection in this court of its
15 Protected Material.

16
17 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

18 If a Receiving Party learns that, by inadvertence or otherwise, it has
19 disclosed Protected Material to any person or in any circumstance not
20 authorized under this Stipulated Protective Order, the Receiving Party must
21 immediately (a) notify in writing the Designating Party of the unauthorized
22 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the
23 Protected Material, (c) inform the person or persons to whom unauthorized
24 disclosures were made of all the terms of this Order, and (d) request such
25 person or persons to execute the "Acknowledgment and Agreement to Be
26 Bound" that is attached hereto as Exhibit A.

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1 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
2 PROTECTED MATERIAL

3 When a Producing Party gives notice to Receiving Parties that certain
4 inadvertently produced material is subject to a claim of privilege or other
5 protection, the obligations of the Receiving Parties are those set forth in Federal
6 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
7 whatever procedure may be established in an e-discovery order that provides for
8 production without prior privilege review. Pursuant to Federal Rule of Evidence
9 502(d) and (e), insofar as the parties reach an agreement on the effect of
10 disclosure of a communication or information covered by the attorney-client
11 privilege or work product protection, the parties may incorporate their
12 agreement in the stipulated protective order submitted to the court.

13
14 12. MISCELLANEOUS

15 12.1 Right to Further Relief. Nothing in this Order abridges the right of
16 any person to seek its modification by the Court in the future.

17 12.2 Right to Assert Other Objections. By stipulating to the entry of this
18 Protective Order no Party waives any right it otherwise would have to object to
19 disclosing or producing any information or item on any ground not addressed in
20 this Stipulated Protective Order. Similarly, no Party waives any right to object
21 on any ground to use in evidence of any of the material covered by this
22 Protective Order.

23 12.3 Filing Protected Material. A Party that seeks to file under seal any
24 Protected Material must comply with Civil Local Rule 79-5. Protected Material
25 may only be filed under seal pursuant to a court order authorizing the sealing of
26 the specific Protected Material at issue. If a Party's request to file Protected
27 Material under seal is denied by the court, then the Receiving Party may file the
28 information in the public record unless otherwise instructed by the court.

1 13. FINAL DISPOSITION

2 Within 60 days after the final disposition of this Action, as defined in
3 paragraph 4, each Receiving Party must return all Protected Material to the
4 Producing Party or destroy such material. As used in this subdivision, “all
5 Protected Material” includes all copies, abstracts, compilations, summaries, and
6 any other format reproducing or capturing any of the Protected Material.
7 Whether the Protected Material is returned or destroyed, the Receiving Party
8 must submit a written certification to the Producing Party (and, if not the same
9 person or entity, to the Designating Party) by the 60 day deadline that (1)
10 identifies (by category, where appropriate) all the Protected Material that was
11 returned or destroyed and (2) affirms that the Receiving Party has not retained
12 any copies, abstracts, compilations, summaries or any other format reproducing
13 or capturing any of the Protected Material. Notwithstanding this provision,
14 Counsel are entitled to retain an archival copy of all pleadings, motion papers,
15 trial, deposition, and hearing transcripts, legal memoranda, correspondence,
16 deposition and trial exhibits, expert reports, attorney work product, and
17 consultant and expert work product, even if such materials contain Protected
18 Material. Any such archival copies that contain or constitute Protected Material
19 remain subject to this Protective Order as set forth in Section 4 (DURATION).
20

21 14. Any violation of this Order may be punished by any and all appropriate
22 measures including, without limitation, contempt proceedings and/or monetary
23 sanctions.
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1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD

2
3 Dated: February 24, 2017

CAMERON SEHAT,
THE SEHAT LAW FIRM

4
5 Bv: /s/ Cameron Sehat
6 Cameron Sehat
7 Attorney for Plaintiff

8 Dated: February 24, 2017

KRISTIN A. PELLETIER,
ACTING CITY ATTORNEY

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10 Bv: /s/ Gregg M. Audet
11 Gregg M. Audet
12 Deputy City Attorney
13 Attorneys for Defendants
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19 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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21 Dated: March 2, 2017


22 The Honorable Jay C. Gandhi
23 United States Magistrate Judge
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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3
4 I, _____ [print or type full name], of _____ [print
5 or type full address], declare under penalty of perjury that I have read in its
6 entirety and understand the Stipulated Protective Order that was issued by the
7 United States District Court for the Central District of California on _____
8 [date] in the case of *Kevin Duprie Jones v. City of Anaheim, et al.*, USDC case
9 no. 8:16-cv-02152 DOC (JCGx). I agree to comply with and to be bound by all
10 the terms of this Stipulated Protective Order and I understand and acknowledge
11 that failure to so comply could expose me to sanctions and punishment in the
12 nature of contempt. I solemnly promise that I will not disclose in any manner any
13 information or item that is subject to this Stipulated Protective Order to any
14 person or entity except in strict compliance with the provisions of this Order. I
15 further agree to submit to the jurisdiction of the United States District Court for
16 the Central District of California for the purpose of enforcing the terms of this
17 Stipulated Protective Order, even if such enforcement proceedings occur after
18 termination of this action.

19
20 Date: _____

21 City and State where sworn and signed: _____

22 Printed name: _____

23 Signature: _____
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